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Paper 6

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OFFICE OF PETITIONS

In re Application of
Kutaragi, et al.
Application No. 09/942,978
Filed: 30 August, 2001
Attorney Docket No.: SCEW 18.968

DECISION GRANTING REQUEST

This is a decision on the petition under 37 C.F.R. §1.10¹ filed 10 July, 2002, and the request for a corrected filing receipt filed on 17 June, 2002.

The petition is **GRANTED**.²

The record demonstrates that:

- while Petitioner states that he does not have a copy of the Express Mail label,
- the Office Express Mail database does evidence that the official United States Postal Service (USPS) Express Mail deposit date for the USPS Express Mail tracking number EL639693967US was deposited with the USPS on 30 August, 2001, and delivered to the Office on 31 August, 2001, and,

¹ The regulations at 37 C.F.R. §1.10 provide in pertinent part:
§1.10 Filing of papers and fees by "Express Mail."

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a) - (c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

² Pursuant to petitioner's authorization, the petition fee (\$110.00) is charged to Deposit Account 50-1290.

therefore, the application is entitled to a filing date of 30 August, 2001, under the provisions of 37 C.F.R. §1.10.

As to the instant application, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 30 August, 2001, and
- issue a corrected filing receipt specifying the filing date as that of 30 August, 2001.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 30 August, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/942,978.

The application file will then be forwarded for processing as necessary.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-9199.



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